

## **DRAWING AMENDMENTS**

### **In the Drawing:**

Please replace Drawing Sheet 3, Figure 4 with Replacement Drawing Sheet 3, Figure 4. Applicants also submit an annotated red-lined drawing page reflecting the changes. Applicants provide formal corrected drawings to be entered if the proposed changes are accepted by the Examiner.

### REMARKS

This Application has been carefully reviewed in light of the Office Action mailed August 22, 2005. At the time of the Office Action, Claims 1-27 were pending in this Application. Claims 1-27 were rejected. Claims 1-5, 9-11, 13-14, 18-21, and 23-24 have been amended to advance prosecution of the Application. Applicants respectfully request reconsideration and favorable action in this case.

#### Specification Amendments

Applicants have amended the Specification in response to the Examiner's objection to the drawings, and to correct various clerical errors.

First, as shown above at page 2 of this paper, Applicants have amended paragraph [0021] to remove reference numeral 30.

Second, Applicants have amended paragraph [0022] to remove the superfluous expression "i.e."

Third, Applicants have amended paragraph [0023] to change "the intake pipes 20 to 22" to "the intake pipes 5 to 8" to correct a clerical error.

Fourth, Applicants have amended paragraph [0023] to correct another clerical error as follows:

[0023] . . . a test will be performed in a step S4 as to whether or not the speed N exceeds a first threshold value. Should this **not** be the case, the positions S of the switching flaps 20 to 22 are moved to a closed state CL in a step S5. . . . As a result, excellent charging of the cylinders can be guaranteed in the range between the third threshold value N0 and the first threshold value N1.

[0024] However, if the speed N in the step S4 exceeds the first threshold value N1, a step S6 tests whether or not the speed exceeds a second threshold value N2. . . .

This fourth correction is supported by the context of paragraphs [0023] - [0024], the remainder of the Specification, and the Claims. As shown above, paragraph [0023] states that ". . . a test will be performed in a step S4 as to whether or not the speed N exceeds a first

threshold value.” The specification then discusses the two possible outcomes of the decision step S4. The first possible outcome is stated in paragraph [0023]: “Should this not be the case, the positions S of the switching flaps 20 to 22 are moved to a closed state CL in a step S5.” (amendment underlined). The second possible outcome is stated in paragraph [0024]: “However, if the speed N in the step S4 exceeds the first threshold value N1, a step S6 tests whether or not the speed exceeds a second threshold value N2.”

The correction in paragraph [0023] to read “Should this not be the case . . .” (amendment underlined) is first supported by the following statement in paragraph [0023]: “As a result, excellent charging of the cylinders can be guaranteed in the range between the third threshold value N0 and the first threshold value N1.” This language clearly indicates that paragraph [0023] discusses a situation in which the speed is less than the first threshold value N1. This is consistent with correcting “Should this be the case . . .” to “Should this not be the case . . .” in paragraph [0023] with regard to the a test at step S4 as to whether or not the speed N exceeds a first threshold value.

The correction in paragraph [0023] to read “Should this not be the case . . .” is further supported by the fact that paragraph [0024] reads “*However*, if the speed N in the step S4 exceeds the first threshold value N1, a step S6 tests whether or not the speed exceeds a second threshold value N2. . . .” (emphasis added). This language (particularly the word “However”) indicates that paragraph [0023] discusses the alternative -- i.e., the case in which the speed N is less than the first threshold value N1.

Still further, the correction in paragraph [0023] to read “Should this not be the case . . .” is further supported by, e.g., the “Summary of the Invention” and the “Claims” sections of the Specification. For example, the Summary states at paragraph [0005]:

[0005] The object of the invention can be achieved by a method for controlling an internal combustion engine with an intake device, comprising intake pipes for intakes of cylinders of the internal combustion engine and first actuators for adjusting the effective pipe lengths of the intake pipes by closing or opening at least one opening of the intake pipes up to a hollow body and at least one second actuator for controlling the first actuators, comprising the steps of:

- within a first speed range whose upper limit is a first threshold value, moving the first actuators into a closed position,
- for a speed, exceeding a first threshold value and being less than a second threshold value, moving the first actuators into a leakage position, and
- for a speed exceeding the second threshold value, moving the first actuators into an open position. (emphasis added)

This passage teaches moving the first actuators into a closed position in a speed range below the first threshold value. This supports and is consistent with the correction of “Should this be the case . . .” to “Should this not be the case . . .” in paragraph [0023].

### **Objection to the Drawings**

The Examiner has objected to the drawings for not showing every feature of the invention specified in the Claims under 37 CFR 1.83(p)(5). In particular, the Examiner indicates that “the reference numeral 30 is missing from the drawings.” As discussed above, Applicants have amended paragraph [0021] of the Specification to remove any reference to reference numeral 30. Thus, Applicants respectfully request the objection to the drawings be withdrawn.

However, on a different note, Applicants have submitted Replacement Drawing Sheet 3, Figure 4 to replace original Drawing Sheet 3, Figure 4. Applicants have also submitted an annotated red-lined drawing page reflecting the changes to Figure 4. Applicants submit that all of the changes to Figure 4 (a) are made to correct inadvertent clerical errors, and (b) are supported by the Specification and Claims, and thus do not add new matter. Each of the changes to Figure 4 are discussed below.

First, Applicants note that in Figure 4, the letters “j” and “n” corresponding with the possible decisions for each decision block S2, S4, and S6 stand for the German words “ja” and “nein,” which are translated in English as “yes” and “no,” respectively. Thus, in the context Figure 4, “j” stands for “yes,” and “n” stands for “no.”

Second, decision block S2 has been edited from “ $N > N_0$ ” to “ $N < N_0$ ” in order to match the Specification at paragraph [0022] (“A step S2 tests whether or not the speed N is less than a third threshold value  $N_0$ .” (emphasis added)). Accordingly, the possible yes/no

outcomes of decision block S2 were reversed to remain consistent with the decision at step S2. Thus, no substantive change was made to decision block S2 or its possible yes/no outcomes, and the edited decision block S2 conforms to the Specification. For example, according to the Specification at paragraph [0022], if the speed N is less than a third threshold value N0, “the position S of switching flaps 20 to 22 is moved to an open position OP in a step S3.” This is consistent with the “yes” branch of the “ $N < N0$ ” decision at step S2 of the revised Figure 4. Similarly, according to the Specification at paragraph [0023], if the speed N is *not* less than a third threshold value N0, “a test will be performed in a step S4 as to whether or not the speed N exceeds a first threshold value.” This is consistent with the “no” branch of the “ $N < N0$ ” decision at step S2 of the revised Figure 4.

Third, the yes/no outcomes for decision block S4 have been reversed in order to correct an inadvertent clerical error. This correction is supported by, e.g., the “Summary of the Invention” and the “Claims” sections of the Specification. For example, as discussed above, the Summary states at paragraph [0005]:

[0005] The object of the invention can be achieved by a method for controlling an internal combustion engine with an intake device, comprising intake pipes for intakes of cylinders of the internal combustion engine and first actuators for adjusting the effective pipe lengths of the intake pipes by closing or opening at least one opening of the intake pipes up to a hollow body and at least one second actuator for controlling the first actuators, comprising the steps of:

- within a first speed range whose upper limit is a first threshold value, moving the first actuators into a closed position,
- for a speed, exceeding a first threshold value and being less than a second threshold value, moving the first actuators into a leakage position, and
- for a speed exceeding the second threshold value, moving the first actuators into an open position. (emphasis added)

This passage teaches moving the first actuators into a closed position in a speed range below the first threshold value. This supports the correction to reverse the yes/no outcomes for decision block S4 in Figure 4.

Fourth, the yes/no outcomes for decision block S6 have been edited to reflect the English terms corresponding to “n” and “j.” In particular, the letter “n” has been replaced with the corresponding English word “no” and the letter “j” has been replaced with the corresponding English word “yes.”

Finally, the layout of Figure 4 has been amended to simplify the pathways and eliminate the crossing of the lines leading from blocks S2 and S5.

Applicants submit that each of the edits to Figure 4 discussed above (a) are made to correct inadvertent clerical errors, and (b) are supported by the Specification and Claims, and thus do not add new matter, for at least the reasons given above.

#### **Rejections under 35 U.S.C. § 112**

Claims 1-27 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended the Claims to overcome each of these rejections and respectfully request full allowance of Claims 1-27 as amended.

#### **Allowable Subject Matter**

Applicants appreciate the Examiner’s consideration and indication that Claims 1-27 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. §112, second paragraph, as set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims. As discussed above, Applicants have amended the claims to address each of the Examiner’s rejections under 35 U.S.C. §112, second paragraph. In addition, Applicants have further amended various claims in order to correct various clerical errors and to place the claims in better condition for allowance. Thus, Applicants respectfully request reconsideration and allowance of Claims 1-27.

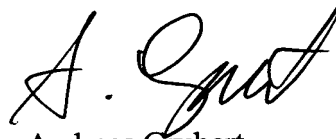
**CONCLUSION**

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,  
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PATENT APPLICATION  
10/758,819

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**APPENDIX**



Method and Device for Controlling an  
Internal Combustion Engine

Inventors: Hubert Limbrunner et al.

Attorney Docket.: 071308.0494

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FIG 4

